



JRW  
Docket No.: 5000-0112PUS1  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Eberhard AMMERMANN et al.

Application No.: 10/518,445

Confirmation No.: 7782

Filed: December 20, 2004

Art Unit: N/A

For: FUNGICIDAL MIXTURES

Examiner: Not Yet Assigned

**L E T T E R**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Subsequent to the filing of the above-identified application on December 20, 2004, attached hereto is an English translation of the International Preliminary Examination Report (Form PCT/IPEA/409) that should be made of record in the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or to credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Dated: OCT - 4 2005

Respectfully submitted,

By Scott L. Lowe  
Scott L. Lowe  
Registration No.: 41,458  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Rd  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicant

Attachment(s)

From the INTERNATIONAL BUREAU

**PCT**

NOTIFICATION OF TRANSMITTAL  
OF COPIES OF TRANSLATION  
OF THE INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT  
(PCT Rule 72.2)

To:	Patente, Marken u. Lizenzen
02. März 2005	
BASF AKTIENGESELLSCHAFT 67056 Ludwigshafen ALLEMAGNE	
1. AST 2. Ref	
Phase beendet 20.12.04	

Date of mailing (day/month/year)  
24 February 2005 (24.02.2005)

Applicant's or agent's file reference  
53751 WO/NI

**IMPORTANT NOTIFICATION**

International application No.  
PCT/EP2003/006892

International filing date (day/month/year)  
30 June 2003 (30.06.2003)

Applicant

BASF AKTIENGESELLSCHAFT et al

**1. Transmittal of the translation to the applicant.**

The International Bureau transmits herewith a copy of the English translation made by the International Bureau of the international preliminary examination report established by the International Preliminary Examining Authority.

**2. Transmittal of the copy of the translation to the elected Offices.**

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following elected Offices requiring such translation:

AZ, CA, CH, CN, CO, GH, KG, KP, KR, MK, MZ, RU, TM

The following elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, BA, BB, BG, BR, BY, BZ, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EP, ES, FI, GB, GD, GE, GM, HR, HU, ID, IL, IN, IS, JP, KE, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MN, MW, MX, NO, NZ, OA, OM, PH, PL, PT, RO, SD, SE, SG, SK, SL, TJ, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

**3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).**

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report.

**It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.**

The International Bureau of WIPO  
34, chemin des Colombettes  
1211 Geneva 20, Switzerland

Authorized officer

Yolaine Cussac

Facsimile No.+41 22 740 14 35

Facsimile No.+41 22 338 70 80

From the INTERNATIONAL BUREAU

**PCT**

**NOTIFICATION OF TRANSMITTAL  
OF COPIES OF TRANSLATION  
OF THE INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**  
(PCT Rule 72.2)

To:

BASF AKTIENGESELLSCHAFT  
67056 Ludwigshafen  
ALLEMAGNE

Date of mailing ( <i>day/month/year</i> ) 24 February 2005 (24.02.2005)	
Applicant's or agent's file reference 53751 WO/NI	
International application No. PCT/EP2003/006892	
Applicant BASF AKTIENGESELLSCHAFT et al	<b>IMPORTANT NOTIFICATION</b>

**1. Transmittal of the translation to the applicant.**

The International Bureau transmits herewith a copy of the English translation made by the International Bureau of the international preliminary examination report established by the International Preliminary Examining Authority.

**2. Transmittal of the copy of the translation to the elected Offices.**

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following elected Offices requiring such translation:

AZ, CA, CH, CN, CO, GH, KG, KP, KR, MK, MZ, RU, TM

The following elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, BA, BB, BG, BR, BY, BZ, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EP, ES, FI, GB, GD, GE, GM, HR, HU, ID, IL, IN, IS, JP, KE, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MN, MW, MX, NO, NZ, OA, OM, PH, PL, PT, RO, SD, SE, SG, SK, SL, TJ, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

**3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).**

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report.

**It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.**

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer  Yolaine Cussac
Facsimile No.+41 22 740 14 35	Facsimile No.+41 22 338 70 80

## PATENT COOPERATION TREATY

PCT/EP2003/006892



## PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 53751 WO/NI	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/006892	International filing date (day/month/year) 30 June 2003 (30.06.2003)	Priority date (day/month/year) 18 July 2002 (18.07.2002)
International Patent Classification (IPC) or national classification and IPC A01N 47/12, 43/32, A01N 47/12		
Applicant BASF AKTIENGESELLSCHAFT		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 4 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of \_\_\_\_\_ sheets.

3. This report contains indications relating to the following items:

- I  Basis of the report
- II  Priority
- III  Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV  Lack of unity of invention
- V  Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI  Certain documents cited
- VII  Certain defects in the international application
- VIII  Certain observations on the international application

Date of submission of the demand 18 December 2003 (18.12.2003)	Date of completion of this report 03 March 2004 (03.03.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/006892

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

- the international application as originally filed  
 the description:

pages \_\_\_\_\_ 1-8 \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_ , filed with the demand  
 pages \_\_\_\_\_ , filed with the letter of \_\_\_\_\_

- the claims:

pages \_\_\_\_\_ 1-7 \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_ , as amended (together with any statement under Article 19  
 pages \_\_\_\_\_ , filed with the demand  
 pages \_\_\_\_\_ , filed with the letter of \_\_\_\_\_

- the drawings:

pages \_\_\_\_\_ , as originally filed  
 pages \_\_\_\_\_ , filed with the demand  
 pages \_\_\_\_\_ , filed with the letter of \_\_\_\_\_

- the sequence listing part of the description:

pages \_\_\_\_\_ , as originally filed  
 pages \_\_\_\_\_ , filed with the demand  
 pages \_\_\_\_\_ , filed with the letter of \_\_\_\_\_

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).  
 the language of publication of the international application (under Rule 48.3(b)).  
 the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.  
 filed together with the international application in computer readable form.  
 furnished subsequently to this Authority in written form.  
 furnished subsequently to this Authority in computer readable form.  
 The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
 The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4.  The amendments have resulted in the cancellation of:

- the description, pages \_\_\_\_\_  
 the claims, Nos. \_\_\_\_\_  
 the drawings, sheets/fig. \_\_\_\_\_

5.  This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

**INTERNATIONAL PRELIMINARY EXAMINATION REPORT**

International application No.

PCT/EP 03/06892

**I. Basis of the report**

1. This report has been drawn on the basis of (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.*):

The documents cited in this preliminary examination report are numbered in the sequence in which they appear in the international search report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 03/06892

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims	1-7	YES
	Claims		NO
Inventive step (IS)	Claims	1-7	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-7	YES
	Claims		NO

**2. Citations and explanations**

The present invention concerns synergistic fungicidal mixtures containing propamocarb and dithianon. D1 describes synergistic fungicidal mixtures containing (N-phenylacetyl-N-2,6-xylyl)methylalaninate and a second active substance selected from a list, for example, propamocarb or dithianon. Therefore propamocarb and dithianon are each known as mixing partners in synergistic fungicides; however, it was not known that together they have a synergistic effect, since they were rather considered alternatives.

The present application meets the requirements of PCT Article 33(2) to (4) since the subject matter of claims 1 to 7 is novel in light of the prior art as defined in the Regulations (PCT Rule 64.1 to 64.3), involves an inventive step (PCT Rule 65.1, 65.2) and has industrial applicability.